

KARPF, KARPF, & CERUTTI, P.C.

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GLORIA PAGAN :

365 Jackson Avenue :
 Scotch Plains, NJ 07076 :

Plaintiff, :

v. :

SELDAT, INC. :

107 Corporate Boulevard, Suite A :
 South Plainfield, N 07080 :

and :

SELDAT DISTRIBUTION, INC. :

107 Corporate Boulevard, Suite A :
 South Plainfield, N 07080 :

and :

SELDAT STAFFING, LLC :

107 Corporate Boulevard, Suite A :
 South Plainfield, N 07080 :

and :

SELECT STAFFING NYC, LLC :

107 Corporate Boulevard, Suite A :
 South Plainfield, N 07080 :

and :

ISMELDA ECHEVERRIA :

107 Corporate Boulevard, Suite A :
 South Plainfield, N 07080 :

and :

DANIEL DADOUN :

107 Corporate Boulevard, Suite A :
 South Plainfield, N 07080 :

and :

AARON HUNTT :

107 Corporate Boulevard, Suite A :
 South Plainfield, N 07080 :

Defendants. :

SUPERIOR COURT OF NEW JERSEY
 MIDDLESEX COUNTY LAW DIV.

CIVIL ACTION

DOCKET NO.:

COMPLAINT WITH JURY DEMAND

CIVIL ACTION COMPLAINT

Plaintiff, Gloria Pagan (hereinafter referred to as "Plaintiff"), by and through her undersigned counsel, hereby avers as follows:

I. Introduction

1. Plaintiff has initiated this action to redress violations by Defendants of the Conscientious Employee Protection Act ("CEPA" - N.J.S.A. §§ 34:19-1 – 34:19-8). Plaintiff was unlawfully terminated by Defendants, and she suffered damages more fully described/sought herein.

II. Parties

2. The foregoing paragraphs are incorporated herein their entirety as if set forth in full.

3. Plaintiff is an adult who resides at the above-captioned address.

4. Defendants Seldat, Inc., Seldat Distribution, LLC, Select Staffing NYC, LLC and Seldat Staffing, LLC operate as a joint enterprise, share resources, advertise as a single initiative, have overlapping management, operate from the same corporate location, overlap in human resources, have the same administration of benefits, use their names interchangeably on business and other forms such as discipline and templates, and are properly considered a single, joint and/or integrated employer of Plaintiff. These corporate defendants are collectively referred to herein as "Defendant Seldat."¹

5. Defendant Ismelda Echeverria (hereinafter "Defendant Echeverria") was and upon information and belief remains Defendant Seldat's Human Resources Director.

¹ Plaintiff places Defendants on notice that upon discovery additional entities may be named herein as Defendant appears to operate under numerous other fictitious names and similar business corporations, but the extent

6. Defendant Daniel Dadoun (hereinafter “Defendant Dadoun”) was and upon information and belief remains Defendant’s Chief Executive Officer (“CEO”).

7. Defendant Aaron Hunt (hereinafter “Defendant Hunt”) was and upon information and belief remains Defendant’s Vice President of Operations.

8. At all times relevant herein, Defendants acted by and through their agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendants.

III. Factual Background

9. The foregoing paragraphs are incorporated herein their entirety as if set forth in full.

10. Plaintiff was hired by Defendant Seldat in or about mid-May of 2017 (and specifically on or about April 17, 2017).

11. Plaintiff was hired to work as a Branch Manager (generally overseeing business recruitment) and she solely worked within Defendant Seldat’s location at 290 Oak Street, Perth Amboy, New Jersey 08861. Although Defendant Seldat employs well in excess of 100 employees, less than 10 employees physically worked at Plaintiff’s location.

12. Within the physical location in which Plaintiff was employed, the highest-level on-site manager was Plaintiff.

13. Defendant Seldat consisted of a single enterprise whereby Plaintiff was hired under the names of Defendant Seldat’s staffing agencies but was interchangeably and continually referred to as an employee of all business names (as set forth in the caption). In her role of Branch Manager, Plaintiff was expected to oversee recruitment of part-time, full-time, and temporary employees to work in Defendants’ own distribution facilities and also to be placed at third-party locations. Plaintiff functionally performed a human resources role within Defendant Seldat.

14. Plaintiff was not new to recruiting or hiring at the inception of her employment with Seldat, as she possessed decades of experience and had a very solid understanding of regulations governing the hiring of employees and legally-mandated payroll practices.

15. Following Plaintiff's first month of employment, she had come to understand Defendants' hiring, payroll and general business practices. And from what Plaintiff could tell, they were point-blank illegal.

16. Plaintiff raised concerns of illegality within Defendant Seldat in June of 2017; and as time progressed, she more adamantly complained about Defendant Seldat's illegal practices through her termination from employment on or about August 21, 2017. Plaintiff also escalated complaints from Defendant Echeverria to Defendant Seldat's executives (also named defendants), and through Defendant Seldat's ownership.

17. Plaintiff was given discipline and abruptly terminated for alleged performance problems all within the same week, after adamantly raising concerns that what Defendants were doing was criminal and informing all Defendants that such issues were being further escalated to local authorities (and in particular, the police).

18. Plaintiff had complained to Defendants and local authorities about, *inter alia*, the following:

- (1) Defendants appeared to be systematically using undocumented employees to perform labor for Defendants' facilities; and in fact, appeared to be condoning recruiting of same (at the highest levels of management / ownership). Another longer-term recruiter (Yessica Zambrano) explained and admitted that the company uses undocumented employees. The use of illegal employees was so significant and prevalent that Plaintiff was realizing Defendants intentionally were not seeking social security information, I-9 forms, and Plaintiff was literally getting contacted by individuals who wanted Defendants to stop using their social security numbers for other workers (in addition to management knowing some people were working under fake names).

(2) Defendants used Plaintiff's location (and the role of recruiters) *as a feigned staffing agency* (which was really part and parcel of Defendant Seldat's entire operation) to fill its distribution centers and warehouses with workers who were clearly working as "employees." However, Defendants' creation of its alleged staffing agency which was basically a human resources role was only a sham to pay over a 100 "employees" by 1099 and to intentionally misclassify employees as if they were independent contractors even though they were known employee-laborers. Defendants were thus attempting to knowingly and unlawfully avoid, local, state and federal withholding requirements and applicable laws on wages and overtime (among others).

19. The above 2 practices were the primary complaints of illegality raised by Plaintiff to all levels of management and to local authorities. However, there were other tangential concerns of illegality that Plaintiff raised such as non-payments to employees who were reporting non-payment to police prompting police to appear at Defendants' workplace location. Many local, state and federal laws make the above-referenced conduct unlawful, criminal and subject individuals responsible for or participating to personal liability.

20. Additionally, Defendant Seldat – through Zambrano – was literally sharing and/or stealing legal social security numbers and information from individuals able to work (some who knew and others who didn't) and paying undocumented workers through those social security numbers (a form of identity theft).

21. Defendants' practices did not change notwithstanding Plaintiff's complaints – and instead – Defendants were more concerned with what information Plaintiff was permitting to be shared with authorities than anything she complained about.

22. Plaintiff was disciplined and terminated within the same approximate week for performance related to lower recruitment. This is in and of itself is *direct evidence* of retaliation as Plaintiff's lower recruitment was due to her objections to continuing unlawful hiring of undocumented workers. By way of example, when Plaintiff started seeking identification for check collection, verifying applications and hiring information, and meeting with hired employees - - she

started accumulating a pile of uncollected checks never paid out to individuals due to the massive pattern of unlawful hiring (along with calls from multiple individuals using the same names).

23. Plaintiff's termination was exceedingly retaliatory and pretextual, as *inter alia*: (1) she was terminated in close proximity to complaints of illegality as discussed *supra*; (2) Zambrano for example, a recruiter committing unlawful acts as ratified and condoned by Defendants, was not given discipline for same or terminated; (3) Plaintiff did not actually have performance problems as claimed by Defendants; and (4) Plaintiff was terminated on the same day as her recruiter (Felix Pilot) who was simultaneously expressing concerns to Defendants and their ownership about Defendants' fraudulent and illegal practices.

Count I
Violations of the Conscientious Employee Protection Act ("CEPA")
(Wrongful Termination)

24. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

25. Plaintiff attempted to exhaust complaint procedures through all levels of Defendants' management, Defendants' ownership, and then to local and state authorities - - specifically regarding Defendants' illegal practices.

26. Plaintiff complained to all Defendants, and she was terminated by the Defendants to this action in retaliation for her complaints of illegality.

27. These actions as aforesaid constitute violations of the Conscientious Employee Protection Act ("CEPA" - N.J.S.A. §§ 34:19-1 – 34:19-8).

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendants are to be prohibited from continuing to maintain their illegal policy, practice or custom of retaliating against employees and are to be ordered to promulgate an effective policy against such unlawful acts and to adhere thereto;

B. Defendants are to compensate Plaintiff, reimburse Plaintiff and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' illegal actions, including but not limited to past lost earnings, future lost earnings, salary, pay increases, bonuses, medical and other benefits, training, promotions, pension, and seniority. Plaintiff should be accorded those benefits illegally withheld from the date she first suffered retaliation at the hands of Defendants until the date of verdict;

C. Plaintiff is to be awarded punitive damages, as permitted by applicable law, in an amount determined by the Court or trier of fact to be appropriate to punish Defendants for their willful, deliberate, malicious and outrageous conduct and to deter Defendants or other employers from engaging in such misconduct in the future;

D. Plaintiff is to be accorded any and all other equitable and legal relief as the Court deems just, proper and appropriate, including but not limited to, emotional distress and/or pain and suffering damages (where legally permitted);

E. Plaintiff is to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable state law;

F. Any verdict in favor of Plaintiff is to be molded by the Court to maximize the financial recovery available to the Plaintiff in light of the caps on certain damages set forth in applicable state law; and

G. Plaintiff's claims are to receive trial by jury to the extent allowed by applicable law.

Respectfully submitted,

KARPE, KARPf & CERUTTI, P.C.

By: 

Ari R. Karpf
3331 Street Road
Two Greenwood Square, Suite 128
Bensalem, PA 19020
(215) 639-0801


Dated: November 27, 2017

JURY DEMAND

Plaintiff hereby demands a trial by jury.

KARPF, KARPF, & CERUTTI, P.C.

By:


Ari R. Karpf, Esquire

RULE 4:5-1 CERTIFICATION

1. I am licensed to practice law in New Jersey, and I am responsible for the above-captioned matter.
2. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

KARPF, KARPF, & CERUTTI, P.C.

By:


Ari R. Karpf, Esquire

DESIGNATION OF TRIAL COUNSEL

Ari R. Karpf, Esquire, of the law firm of Karpf, Karpf, & Cerutti, P.C. is hereby designated trial counsel.

KARPF, KARPF, & CERUTTI, P.C.

By:


Ari R. Karpf, Esquire